U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28660436

Date: DEC. 12, 2023

Motion on Administrative Appeals Office Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner, describing itself as a dry-cleaning business, sought to temporarily employ the Beneficiary as "Accountant/General Manager" of its new office[1] under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the Vermont Service Center concluded the Petitioner did not provide new facts in support of its prior motion to reopen and denied the motion, stating that the submitted evidence was insufficient to overcome the grounds for the denial of the petition.[2] The Director also determined that the Beneficiary was not employed abroad for one year out of the three years prior to filing this petition. The Petitioner later filed an appeal that we dismissed. The matter is before us again on a motion to reopen. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

In dismissing the appeal, we concluded that the motion to reopen submitted with the Director did not include new facts addressing the Director's adverse findings regarding the Beneficiary's employment in a managerial or executive capacity within one year of the petition's approval. We determined that the Petitioner did not offer new evidence that "would likely change the result in the case." *See Coelho*, 20 I&N Dec. at 473. As such, we concluded that the Director had correctly determined that the Petitioner did not show cause to reopen the matter and dismissed the appeal. In addition, because this

[1] The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position. In the decision dismissing the motion, the Director pointed to inconsistencies in the Petitioner's business plan and supporting evidence regarding the funding of the new business operation.

[2] The petition was initially denied in 2015 and the Petitioner filed an appeal. We remanded the matter and a new decision was issued in which the Director again denied the petition. The Petitioner filed a motion to reopen, which the Director also dismissed.

identified basis for denial was dispositive of the Petitioner's appeal, we reserved the Petitioner's appellate arguments regarding the Beneficiary's period of employment abroad.[3]

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner resubmits evidence previously provided on the record, including copies of the Beneficiary's passport and a 2014 letter from his foreign employer meant to reflect his "continued employment with the foreign employer." The Petition requests that we "REVERSE the decision to deny the I-140 petition [*sic*]."

First, the evidence submitted in support of the current motion is not relevant to the primary basis for the Director's denial of the petition and our prior dismissal of the appeal, namely whether the Beneficiary would be employed in a managerial or executive capacity within one year of an approval of the petition. Further, the Petitioner has not stated new facts to warrant reopening of the proceeding, and as such, the motion does not meet the requirements of a motion to reopen and must be dismissed. 8 C.F.R. § 103.5(a)(4). We will not re-adjudicate the petition anew, and therefore, the underlying petition remains denied.

ORDER: The motion to reopen is dismissed.

[3] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).